

CRM-M-32773-2020

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-32773-2020

Date of decision: 26.11.2020

Veena

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr.Amandeep Singh Manaise, Advocate,
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks regular bail in case bearing FIR No.236 dated 15.08.2020, registered at Police Station Dinanagar, District Gurdaspur, under Section 61 read with Section 78(2) of the Punjab Excise Act, 1914.

In the present case, recovery of 35 bottles of illicit liquor was allegedly effected.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case and she has not committed any offence as alleged in the FIR. He further submits that the petitioner has been in custody since 22.09.2020 and even after the expiry of mandatory period of two months, the challan has not been presented so far. He further submits that the provisions of Section 167(2) Cr.P.C. are meant for protection of personal liberty and in event charge-sheet has not been filed

CRM-M-32773-2020

by the police within the stipulated period, the petitioner is entitled for the default bail as contemplated under Section 167(2) Cr.P.C.

On the other hand, learned State counsel does not dispute the fact regarding the date of arrest of the petitioner and non-presentation of challan.

I have heard the learned counsel for the parties.

The scheme of Code of Criminal Procedure clearly delineates that provisions of Section 167 Cr.P.C. gives due regard to the personal liberty of a person. Without submission of charge sheet within 60 days or 90 days as may be applicable, an accused cannot be detained by the Police. The provision gives due recognition to the personal liberty.

In the present case, the petitioner has been in custody since 22.09.2020, but the challan has not been presented so far even after the expiry of mandatory period of two months from the date of her arrest. It is a settled law that right for default bail is an indefeasible right which cannot be allowed to be frustrated by the prosecution.

In view of the above discussion, this Court finds that the petitioner is entitled to the benefit of bail under Section 167(2) Cr.P.C.

Without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

26.11.2020

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No